

T. Chakkalackal

Vs

State of Bihar and Others

Writ Petition No. 10237 of 1985

(A.M. Ahmadi, K. Ramaswamy JJ)

09.01.1992

ORDER

1. In the present proceedings which were commenced some time in June 1985 a Vigilance Committee was appointed in October 1985, and thereafter orders were made from time to time. We do not consider it necessary to make a resume of those orders but it would suffice to say that after the said orders were made a survey was undertaken of the persons alleged to be in bounded labour. Mr. K. D. Dewan was asked to visit the villages mentioned in the previous orders of the Court to identify the bounded labourers and submit a report to this Court. Pursuant to the said order he submitted a report by his forwarding letter dated August 31, 1986. According to the said report he claims to have spent 12 full days and nights and to have interviewed scores of labourers alleged to be bounded labourers. He was in a position to record the statements of as many as 169 labourers and he came to the conclusion that they were living in appalling conditions and in abject poverty. He gave a list of various panchayats in which the 169 labourers interviewed by him were located. His detailed report gives an indication of the duration of bondage and in some cases it would appear that after the death of the father who worked as bounded labour, his son was required to work for the same employer (malik) since the debt incurred by his father was outstanding. The subsequent order made by this Court on November 25, 1986 shows that Mr. Verghese had given a list of 350 persons with particulars drawn on the basis of the Deputy Collector's report identifying the bounded labourers. Mr. Jayanarayan who appeared on behalf of the government did not dispute the correctness of the statement since it was drawn from a responsible officer's report and stated that if these 350 persons were found bounded they have to be released and rehabilitated as required by the scheme of the statute i.e. the Bounded Labour System (Abolition) Act, 1976. According to Section 6 of the said Act on the commencement thereof every obligation of a bounded labourer to repay any bounded debt, or such part of any bounded debt as remains unsatisfied immediately before such commencement shall be deemed to have been extinguished. The expressions 'bonded debt' and 'bounded labour' have been defined in Section 2 of the Act. It would, therefore, appear that at that stage the fact that out of 997 persons alleged to have been kept in bondage by different employers under different panchayats at least 350 were identified in regard to whom Mr. Jayanarayan did not raise any dispute before the Court. Implementation of the provisions of law was directed and the District and Sessions Judge, West Champaran, Bettiah was charged with the duty to look into the matter and ensure their rehabilitation and undertake other relief measures considered appropriate. The District Judge submitted an interim report to this Court on February 9, 1989. After this interim report was received counsel were heard thereon but no final order was passed and the district judge's final report was awaited. That final report dated December 23, 1991 has now been received. It would appear from the final report that out of 350 bounded labourers : the earlier report was in respect of 181+32 labourers totalling 213 detailed in Annexures 'B' and 'C' Annexure 'D' related to

85 persons and Annexure 'A' related to 57 persons and they were summoned by the District Judge. Fifty-nine employers were also summoned but only 16 turned up. By an order dated November 22, 1991, the State of Bihar was directed to clarify the following three points :

(I) Whether any of the bounded labourers about whom enquiry is made, have been settled in any government programme and, if so, the details may be furnished.

(II) Whether State Government accepts or recognises any of them as bonded labourers.

(III) The details of the immoveable property of the alleged bounded labourers based upon the records maintained in the office of Anchaladhikari.

But it appears that no report was submitted by the State of Bihar. The learned District Judge after referring to the relevant provisions of the law and the decision of this Court in *Bandhua Mukti Morcha (Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161)* concluded that the various ingredients which go to make a labourer a 'bounded labourer' within the meaning of the Act were not satisfied. According to him the labourers had not worked or were not working under the system nor were they forced to work although they were working in the past and some of them continued to work in consideration of an advance and/or in consideration of interest due on such advance for specified or unspecified period. He noted that the labourers were permitted to move freely but on account of poverty and want of initiative they did not leave their village and their jobs as they were uncertain about their future. *Prima facie* we find it difficult to accept this conclusion reached by the learned District and Sessions Judge.

2. Be that as it may, it does appear from the proceedings before us as well as from Annexure 'A' to the interim report that several labourers were working under bondage and after the Deputy Collector's survey, that they were forced to refund the bounded debts. As pointed out earlier by virtue of Section 6 on commencement of the Act the debt stood wiped out and it was obligatory on the part of the employer to return any property of the bounded labourer held by him. It also seems clear from the documents on record that even according to the State of Bihar certain persons who were in bondage we release certificate was issued to each bounded labourer on release. We are told such release certificates have to be issued under Government instructions. If that is correct and if the certificates have not been issued, they ought to be issued. But after Section 6 came into operation in regard to bounded labourers whose debt stood extinguished by virtue thereof, if they continued to work under the same or any other employer, the question whether they were paid wages as required by law, e.g. the Minimum Wages Act, would have to be considered and if the same had not been done that would have to be done. Section 9 of the act provides that no creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provision of the Act. Whoever, contravenes this provision is made liable to punishment for a term which may extend to three years and also with fine. As stated earlier the interim report of the District Judge, Annexure 'A' thereto in particular, makes a mention about forced refund of bounded debt after the Act came into force. Such cases would have to be investigated and if contravention of Section 9 is noticed, necessary action would have to be taken by the State Government.

3. Both sides, therefore, agree that further action is necessary for implementing this Court's order. They state that Mr. K. B. Saxena who is presently the Additional Chief Secretary of the State of Bihar and who is familiar with this area may be appointed to carry out the further work to ensure

complete implementation of Court's orders. Mr. Verghese states that he has already sounded him and he has agreed to take this responsibility. We, therefore, direct his appointment. Mr. Verghese will prepare a set of order passed by this Court from time to time and deliver them to him to enable him to appreciate what further action for implementation of Court's orders is expected of him. Copies of the interim report as well as the final report prepared by the District Judge will also be taken out by the State Government and delivered to him. We would like him to undertake this task and complete the same as expeditiously as possible and suggest ways and means for rehabilitating the bounded labourers identified by him. We think that it would be proper to give him six month's time to complete the task. He may submit his report to this Court within six months from the receipt of the Court order making his appointment. A copy of this order may be sent to Mr. Saxena by the Court Registry.

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